

## **REMARKS**

The Applicants acknowledge the Examiner's comprehensive Office Action with appreciation. The Office acknowledges the Request for Continued Examination (RCE) and the Response and Amendment of April 23, 2004. Claims 26-44 and 51 remain under consideration. The Office raises an obviousness rejection under 35 USC § 103(a).

Claims 26-44 and 51 are rejected for obviousness under 35 USC § 103(a) based on the disclosure of Derrieu, et al. (US Patent No. 5,527,783) and Allen, Jr., et al. (US Patent No. 5,595,761). Derrieu, et al. disclose a plant-based composition capable of being converted to a dry and porous galenic form. The galenic form is disclosed to be suitable for enhancing the stability and absorption of the active principles of plants, for example, willow, burdock, and nettle. Allen, Jr., et al. disclose a particulate support matrix which can be used in the production of rapidly dissolving solid dosage forms.

In its combination rejection, the Office states that Derrieu, et al. disclose a solid composition based on plants, which disclosure may be combined with the disclosure of Allen, Jr., et al. who disclose a fast dissolving micro-porous composition. The Office notes that Derrieu, et al. are silent with regard to density and dissolution time and that Allen, Jr., et al. disclose a density range of 0.1 g/mL to 0.6 g/mL and a dissolution time below 10 seconds. It is the position of the Office that it would have been obvious to include components of plant origin into the formulation disclosed in Allen, Jr., et al. in order to modulate the dissolution rate and that the inclusion of the maltodextrins of Derrieu, et al. would have been well within the level of skill in the art.

The Office goes on to state that "...one of ordinary skill in the art would have been motivated to combine the polysaccharides of '783 [Derrieu, et al.] with the components and formulation of '761 [Allen, Jr., et al.] in order to impart a sweeter

flavor onto the formulation. It would have been obvious to combine these teachings and suggestions with an expected result of an effervescent formulation useful in delivering active agents." Thus, it is the position of the Office that the combination of these two disclosures teaches all of the components of the instant composition, rendering the instant invention obvious.

The Office has not demonstrated a motivation to combine these two references. Allen, Jr., et al. disclose a particulate powder that may be useful for pharmaceuticals such as antihistamines, decongestants, or antibiotics; however, the reference does not disclose any examples containing a specific active ingredient, much less a plant based component as in Derrieu, et al. The Derrieu, et al. disclosure is directed specifically to a galenic form based on plants, such as willow, burdock, and nettle. Derrieu, et al. also disclose the complex nature of plant based compositions and the difficulty associated with formulating such compositions. There is no indication in either disclosure that the plant-active composition disclosed in Derrieu, et al. would be compatible with the pharmaceutical formulation disclosed in Allen, Jr., et al. In fact, the Derrieu, et al. disclosure, which speaks to such formulation difficulty, may be considered to teach away from the formulation disclosure of Allen, Jr., et al. Therefore, the Office has not established a case for *prima facie* obviousness. It is submitted that the instant invention, directed to compositions comprising polymers of plant origin, are unrelated to both cited disclosures and clearly not suggested by the cited disclosures. Reconsideration and withdrawal of the obviousness rejection are respectfully requested.

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Accordingly, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned attorney has made an earnest effort to place this application into condition for immediate allowance. If he can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call him at his below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

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